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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Billed Party Preference )  
for 0+ InterLATA )

CC Docket No. 92-77

REPLY COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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The American Public Communications Council ("APCC") hereby replies to comments filed in response to the Commission's Notice of Proposed Rulemaking in these proceedings, FCC 92-169, released May 8, 1992 ("Notice").

SUMMARY

More than three quarters of the parties commenting are opposed to the Commission's proposal to institute a mandatory system of billed party preference ("BPP"). There is substantial opposition to the Commission's proposal even within those groups that might be expected to have an economic interest in supporting it.

The comments reveal that billed party preference will not improve service on balance, and will create additional confusion and inconvenience for consumers. First, to implement mandatory billed party preference just when consumers have become acclimated to access code dialing is to invite confusion. Second, mandatory billed party preference cannot be a universal dialing procedure. Therefore, consumers would be unable to rely on it as a uniform method of reaching the billed party's preferred interexchange carrier ("IXC"). Third, the actual operation of billed party

preference would be a source of substantial confusion and inconvenience for consumers, due to the "double operator" problem and an unavoidable significant increase in call processing time.

Further, the cost estimates provided in response to the Notice confirm that billed party preference would be far more expensive than previously thought, with direct cost estimates totaling about one billion dollars. Even accepting these estimates at face value, and without considering the enormous indirect costs, this is far too much to spend for the marginal benefits, if any, that mandatory billed party preference would achieve.

Underscoring the lack of justification for compulsory billed party preference, numerous local exchange carriers ("LECs") insist that the costs of the system must be recovered irrespective of how much the system is actually used by consumers. Such an approach would remove any semblance of a market check. Billed party preference would become a subsidized offering "bundled" with the LECs' monopoly exchange access services. The system would be effectively imposed, not only on payphone owners and aggregators, but also on IXC's and their subscribers. Even though access code dialing incurs fewer actual costs, it would not be a meaningful option because a contribution to billed party preference would be included in the price of the access code call. To subsidize billed party preference in this fashion would be the antithesis of every policy the Commission has sought to pursue in telecommunications for the last 20 years.

Even if billed party preference were not compulsory for IXCs, its supporters agree it must be compulsory for aggregators and payphone providers, and the comments confirm that this would be a regressive step. The FCC's pro-competitive policies for customer premises equipment ("CPE"), enhanced services, long distance resale, and most recently local exchange access, have benefited the public by enabling subscribers to decide for themselves how best to make the equipment on their premises available to the public, and by encouraging the deployment of "distributed intelligence" that makes each customer premises the locus of competitively spurred technological innovation. The Commission's BPP proposal would reverse these established pro-competitive policies, and "return to the 1940s-style, paternalistic regulatory philosophy that favors monopoly over competition." By undermining the incentives for independent payphone providers and aggregators to offer public communications facilities and to deploy state-of-the-art technology, compulsory BPP would cause a decline in the quality and quantity of public communications service. In addition, computer intelligence would be recentralized in LEC networks, where innovation would stagnate under the heavy hand of regulated monopoly. This reversal of policy would be analogous to ruling that all subscribers must use Centrex service -- thereby outlawing the PBX.

In APCC's view, the proper approach to billed party preference is to allow it to be tested in the marketplace. The system should not be imposed on anyone -- aggregators, IXCs, LECs, or end users

-- and should be allowed to succeed or fail based on its own marketplace appeal. It cannot be in the public interest to impose billed party preference on an unwilling industry.

Finally, virtually all parties who addressed the issue recognized that, if the Commission does mandate billed party preference, it must prescribe reasonable compensation for independent payphone owners for the 0+ calls they must route to the billed party preference system.

#### I. THERE IS LITTLE SUPPORT FOR THE COMMISSION'S PROPOSAL

More than three quarters of the parties commenting are opposed to the Commission's proposal to institute a mandatory system of billed party preference. The opponents come from all affected sectors of the industry, including local exchange carriers ("LECs") (see Comments of BellSouth, NYNEX), interexchange carriers ("IXCs") (see, e.g., Comments of AT&T, Allnet), operator service providers ("OSPs") (see, e.g., Comments of Capital Network System, International Telecharge, Inc.), pay telephone companies (see, e.g., Comments of California Payphone Association, Intellicall), and "aggregators" (see, e.g., Comments of American Hotel & Motel Association, City of New York, Greater Orlando Airport Authority, National Association of Convenience Stores).

Significantly, the LECs -- the industry group with the most to gain from a mandatory system of billed party preference -- are by no means unanimously in favor of billed party preference. Of the LECs who filed comments, half are either neutral or opposed to

the Commission's billed party preference proposal. Compare Comments of BellSouth and NYNEX (opposed) and Southwestern Bell, U S West, and SNET (dubious) with Comments of Ameritech, Bell Atlantic, GTE, Pacific Bell/Nevada Bell ("Pacific") and Sprint/United (in favor). BellSouth, which previously supported billed party preference, explains that changed circumstances have caused it to change its views. As BellSouth points out, in the five years since proposals for billed party preference first surfaced, "the operator services market has undergone significant changes." BellSouth at 1. As a result of these changes, BellSouth concludes, the problems that billed party preference would address are already being solved:

Enactment of the Telephone Operator Consumer Services Improvement Act, regulatory initiatives by this Commission and new LEC service offerings will largely eradicate the abuses BPP was intended to remedy. In light of the changing character of the market, substantial implementation costs and a probable waiting period of several years before the service could be deployed, BellSouth does not believe that the public interest will be served by mandating BPP at this time.

Id. at 19. NYNEX estimates that its own costs for comprehensive implementation of billed party preference would exceed \$150 million in the first five years alone, and concludes that "on balance, the cost of billed party preference outweighs the benefits to the public." NYNEX at ii.

Several other LECs, who do not categorically commit themselves either for or against mandatory billed party preference, express similar concerns about the costs and/or the incremental value of the benefits to be derived. Southwestern Bell, for example, notes

that recent changes in vendor price estimates for billed party preference "cause SWBT to have serious concerns about the final projected level and availability of vendor prices and total implementation requirements." Southwestern Bell at 10. Southwestern Bell is concerned "that the total cost of implementing BPP may exceed the market willingness to pay." Id. at ii. U S West questions "whether the asserted benefits of billed party preference would outweigh the related costs, particularly in light of legislation and Commission rule amendments aimed at eliminating end user inability to gain access to the carrier of choice." U S West at 2-3. U S West adds that "[u]nless LECs can be assured of full recovery of total unseparated implementation costs, USWC would oppose billed party preference." Id. at 19.

A number of other parties who might be expected to support the Commission's proposal either have not supported it or have actively opposed it. For example, it would seem that those interexchange carriers who serve the "1+" market would have an economic interest in the opportunity to have subscribers' 0+ calls automatically routed to them, and would be among the supporters of billed party preference. However, a majority of the 1+ IXC's who filed comments are opposed to mandatory billed party preference. Compare Comments of Allnet, AT&T, Pilgrim Telephone, Inc., and RCI Long Distance, Inc. (opposed), with comments of Litel, MCI, and Sprint (in favor). AT&T states that billed party preference "is not likely to provide a significant incremental benefit over current dialing arrangements" (AT&T at i), and, in addition to the charges assessed

by LECs, would require very costly changes in IXC operator systems (id. at 12), while interfering with IXCs' deployment of enhanced 0+ features. Allnet views billed party preference as essentially an enhancement to LEC calling cards that would give LEC cards a competitive advantage over IXCs' cards. Allnet at 1. Allnet argues that billed party preference should prove itself in the market and should not be mandatory for any private payphone or aggregator, and should not be offered at all unless there is intraLATA presubscription. Id. at 2-4. Pilgrim Telephone "recognizes that it could be a beneficiary" of a billed party preference system, but nonetheless "is concerned about the adverse effects billed party preference implementation could have on its customers, and on telephone consumers as a whole." Pilgrim at 2.

Even more significantly, no association of consumers or other end users has filed comments in support of the Commission's proposal. From the perspective of state regulators, the National Association of Regulatory Utility Commissioners ("NARUC"), which in the past has supported billed party preference "in principle" but "subject to a cost/benefit determination," filed a copy of its most recent resolution on the subject, approved at its July 1992 meeting. The resolution notes, inter alia, that comments filed in these proceedings "indicate costs of BPP will be approximately a billion dollars" and states that "NARUC reserves judgement on supporting BPP implementation until there is a more concrete determination of the costs and on the specifics of implementation at this time." See Resolution Regarding Billed Party Preference

(corrected version), attached to Letter to Donna Searcy, FCC Secretary, from James Bradford Ramsay, NARUC Deputy Assistant General Counsel, dated August 7, 1992.

II. BILLED PARTY PREFERENCE WOULD DEGRADE SERVICE TO END USERS

The comments confirm that the benefits of billed party preference are not "as advertised." A key premise underlying the Commission's proposal to impose a billed party preference requirement is that operator services should become "more user friendly." Notice, para. 16. As Commissioner Marshall put it, the hope is that, ultimately, "we [will] all know how to place a long distance call without carrying a little manual around with us." Telecommunications Reports, April 13, 1992, at 2. However, the notion that mandatory billed party preference would help achieve this goal is not supported by the record. Instead, as commenting parties point out, billed party preference will not improve service on balance, and will create additional confusion and inconvenience for consumers.

First, as a number of parties explain, consumers are becoming acclimated to the current system that relies on access code dialing and location owner presubscription. To implement mandatory billed party preference just when consumers have become acclimated to the existing system is to invite further confusion. Second, mandatory billed party preference cannot be a universal, nationwide dialing procedure. Therefore, consumers would be unable to rely on it as a uniform method of reaching the billed party's preferred IXC.

Third, the actual operation of billed party preference will be a source of substantial confusion and inconvenience for consumers, due to the "double operator" problem and an unavoidable significant increase in call processing time.

A. It Is Too Late To Introduce Billed Party Preference

The consensus of LECs is that billed party preference cannot be implemented until 1996, at earliest. Ameritech at 2; Bell South at 17; Southwestern Bell at 17. By that time, consumers will have become fully acclimated to dialing access codes when they want to reach their preferred carrier. Bell South at 9. To institute mandatory billed party preference at that point is bound to be a source of great confusion for consumers who are used to dialing access codes, even if the system did not pose any other problems.

B. Billed Party Preference Cannot Be Universal

Even after it is ready to be deployed, billed party preference will not be the universal dialing procedure that it is claimed to be. As several parties in addition to APCC point out, billed party preference cannot be a universal dialing procedure unless it applies to intraLATA calls. Allnet at 3; Intellicall at 13. No party even claims that billed party preference would apply to such calls, which account for roughly 25% of all long distance calls. Instead of going to the carrier preferred by the billed party,

these calls would go, in most cases,<sup>1</sup> to whatever LEC serves the location of the telephone.

In addition, APCC could not identify any party who argued that the FCC could or should compel the application of billed party preference to intrastate interLATA calls. As a number of comments point out, this issue is a matter to be decided by each state commission.

Further, even proponents of billed party preference admit that there is no plan for billed party preference to apply to interLATA calls made with commercial credit cards or foreign calling cards. GTE at 10; Pacific at 16.

In addition, the LECs generally oppose the use of 0+ balloting. In the absence of such balloting, the carrier selection made by the billed party preference system would be approximate at best, based on the questionable assumption that the 1+ carrier preferred by the end user is also the 0+ carrier preferred by that end user. In those instances where the 1+ carrier does not serve the area from which the end user is originating a 0+ call, the billed party preference system would resort to the even more dubious mechanism of IXC-designated "secondary" carriers.

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<sup>1</sup> In some jurisdictions, a payphone owner or aggregator can designate a particular operator service provider ("OSP") to handle intraLATA 0+ calls. Presumably, such arrangements could continue under a billed party preference system. However, regardless of whether the existing regulations require intraLATA 0+ calls to default to the LEC or allow such calls to be routed to an OSP designated by the aggregator or payphone owner, neither system is designed to enforce "billed party preference."

The claim of billed party preference to be a universal dialing procedure is further eroded by indications that a number of interexchange carriers, including AT&T, would continue encouraging their subscribers to dial access codes. Bell Atlantic at 7. Therefore, unless the Commission were to outlaw access code dialing as some parties suggest, billed party preference would not even make good on its promise to eliminate the consumer "confusion" allegedly created by access codes.

C. The Double Operator Problem Would Not Be Solved

The record indicates that the "double operator" problem is far from solved, even assuming (which is not warranted) that SS7 and AABS are universally deployed by the time billed party preference is introduced. The "double operator" problem occurs on "0+-" and "0-" calls. Together, these categories include all collect and third party billed calls and a substantial percentage of calling card calls.

On "0+-" calls, the end user dials "0" plus a ten-digit destination number, and is prompted by a bong, but does not punch in a calling card number.<sup>2</sup> At this point, an operator (either live or automated) must intervene to request billing information from the caller. On "0-" calls, the end user simply dials "0," and an operator must intervene to find out (1) that the caller wants to

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<sup>2</sup> By contrast, a call where the caller does respond to the "bong" by punching in a calling card number is referred to as a "0++" call.

make an operator-assisted call, (2) the number to be dialed, and (3) the billing information.

Under the billed party preference system, the initial intervention to find out what the caller wants and to collect billing information would have to be performed in the first instance by a LEC operator, in order to determine which IXC would handle the call. However, the function of ultimately validating and completing the call would be handled by an IXC operator. Without SS7 and AABS, the "double operator" problem would be obviously intolerable to consumers. The LEC operator (live or automated) would intervene and ask the caller (1) what he or she wants, (2) what number is to be dialed, (3) whether the call is a collect, third number or calling card call, and -- except in the case of a collect call -- (4) what is the billing number.<sup>3</sup> Then the system would "look up" the billing number and would route the call to the IXC associated with that number. Then the IXC operator would intervene and would again ask the caller what kind of call it is and what is the caller's name or billing number. Then the IXC operator would either validate the billing number or (in the case of collect) ring the called party to gain acceptance of the call. U S West at 7. Clearly, the Commission cannot contemplate putting millions of "0-" and "0+-" callers through such a nightmare.

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<sup>3</sup> On a "0-" call, all four pieces of information would have to be collected by the LEC operator. For a "0+-" call, only the last two pieces of information would have to be collected by the LEC operator, because the caller's initial dialing of "0" plus a number would provide the first two pieces of information.

Even with SS7 and AABS, the manner in which a billed party preference system would handle "0+-" and "0-" calls would be clumsy at best. As in the scenario described above, the LEC operator would initially have to collect information from the caller. The system would then transmit the information about the type of call and the billing number or caller's name to the IXC operator. In the case of collect calls, the LEC also might be able to collect and transmit the caller's name. But see U S West at 8-9. If not, the IXC operator would have to intervene to get it. The IXC operator (live or automated) would then validate the billing number or card number transmitted by the LEC or -- in the case of collect calls -- would use the caller's name to query the called party about accepting the call.

While this latter scenario would be an improvement over the nightmare described above, it is hardly a satisfactory approach. In order to avoid mistakes in the transmission of information, there would have to be a high degree of coordination between the hundreds of LECs and the hundreds of IXCs. It cannot be guaranteed that the coordination necessary to ensure high quality operator service will be achieved. Further, on a substantial number of calls it must be assumed that there will be mistakes, either by the caller in inputting or speaking information, or by the system in transmitting information or performing data base look-ups. Even without mistakes, end users frequently demand a live operator and/or seek to change their billing method. Bell South at 14-15. On these occasions, billed party preference will add confusion

because the caller may end up talking to a different operator or may have to be transferred back and forth between operators in order to complete the call.

Therefore, even in those cases where there is a system in place for the LEC operator to automatically transmit the information provided by the caller to the IXC operator, the double operator problem remains a substantial defect in the billed party preference proposal.

D. Call Processing Time Will Significantly Increase

The record indicates that billed party preference does not score very well on the issue of call processing time, either. Some of the advocates of billed party preference claim that their call processing time "should not" increase under billed party preference. Pacific at 11. See also Bell Atlantic at 8. This careful locution invites the inference that, whatever "should" happen, there may actually be some call processing delay, and therefore some degradation of service. Of equal importance, the supporters of billed party preference provide virtually no evidence or even predictions as to the actual time that would be consumed by each step that the system must perform. Id. By contrast, a number of other parties, including LECs, provide specific information showing that the call processing time for billed party preference will not only increase, but will be significantly greater than under the current system, even taking into account a reasonable estimate of time saved by not dialing access codes.

U S West at 12-13. In its "800 number portability" proceedings, the Commission has had to grant every major LEC a waiver of its access time standards for 800 data lease access, because none of the LECs was able to meet those standards. Provision of Access for 800 Service, CC Docket No. 86-10, Orders, DA 92-1019 through 92-1027, released July 28, 1992.

III. THE COSTS OF BILLED PARTY PREFERENCE FAR EXCEED ANY CONCEIVABLE BENEFITS

The cost estimates provided in response to the Notice, including the estimates provided by advocates of billed party preference, confirm that billed party preference would be an extremely expensive undertaking. According to NARUC, the estimates of direct costs supplied in the initial comments total about one billion dollars. Even without considering the enormous burdens and wasted investment incurred by indirectly affected parties such as payphone owners, aggregators, and operator service providers, this is far too much to spend for the marginal benefits, if any, that mandatory billed party preference would achieve.

The LECs' own estimates acknowledge that their costs would be at least in the range of \$150-200 million each for the first five years, or 14-18 cents per call. Moreover, these per-call estimates are based on very generous estimates of actual "demand" for billed party preference. To these already huge cost estimates, several factors must be added on. First, it must be presumed that the LEC figures are underestimated. The Commission has not attempted to elicit binding cost estimates from the LECs, and their overall

incentive at this stage is to underestimate the likely costs, especially since any actual implementation of the system remains several years away. In fact, a number of LECs are candid enough to state that they have no way at present to give comprehensive cost estimates because they do not have sufficient information about demand or what their suppliers will charge for the necessary equipment and software. SNET at 2; Southwestern Bell at 10. Southwestern Bell adds that it has been informed by its vendors that the estimates on which it initially relied were "soft" numbers and are now obsolete.

Second, it is necessary to consider the costs that other parties, including IXCs, aggregators, and payphone providers, will incur in order to implement billed party preference. AT&T estimates that its own network will have to be modified, and describes a variety of costs totaling \$68 million. AT&T states that these cost estimates do not include a number of other costs, including stranded investment, which cannot be quantified at present. AT&T at 12-15.

Third, the Commission must consider the costs that will be incurred in the form of wasted investment in equipment that was replaced or modified at the Commission's express command in order to provide 10XXX capability. Also to be considered is the cost of wasted investment in companies that would go out of business or must substantially curtail their operations as a result of the burden imposed by regulations imposing billed party preference.

Fourth, the Commission must consider the cost of compensation that must be prescribed if pay telephones and aggregator telephones are to continue to be provided in the quantity and quality that the public demands.

APCC notes that the FCC has announced the formation of a working group to develop a systematic approach cost-benefit analysis of policy proposals. Telecommunications Reports, August 10, 1992 at 24. As the comments in these proceedings abundantly demonstrate, the case for going forward with the Commission's billed party preference proposal based on a cost-benefit analysis is anything but clear. Given the magnitude of the changes that would be wrought and the burdens that would be imposed by the Commission's proposal, there can be no justification for adopting it if the benefits do not clearly outweigh the costs. Therefore, if the Commission wishes to pursue its proposal any further -- a course which APCC does not recommend -- the Commission should at a minimum refer the proposal to its cost-benefit task force for a thorough investigation based on sound analytical principles.

IV. THE LECs' PROPOSALS FOR COST RECOVERY UNDERSCORE THAT BILLED PARTY PREFERENCE WILL BE A CROSS-SUBSIDIZED SERVICE WITHOUT ANY VALID POLICY JUSTIFICATION

How would the enormous costs of billed party preference be recovered? The answers provided by the record are revealing.

Most of the LECs contend that even the Commission's overly generous proposal to treat billed party preference as a "new service" -- with no realistic means of limiting what the LECs can

charge -- is not enough to ensure LECs the revenues they require for BPP. The LECs fear that too many consumers will "bypass" this supposedly "user friendly" service by dialing access codes. Comments of Bell Atlantic at 6-7; U S West at 20. Therefore, a number of LECs are not satisfied with imposing billed party preference on all aggregators or payphone owners. In addition, they want billed party preference to be -- either formally or in effect -- a mandatory dialing procedure for IXC's and/or end users. While not all LECs go so far as to propose that IXC's be compelled to subscribe to billed party preference (but see Comments of Pacific at 11-12), several insist that they be paid for BPP regardless of how much the service is actually used. Comments of Ameritech at 20-21 (BPP costs qualify for "exogenous" price caps treatment); Bell Atlantic at 5-6 (BPP costs qualify for "exogenous" treatment, and should not be recovered solely from BPP calls). See also Comments of NYNEX at 19 (BPP costs should be recovered through the end user access charge).

This approach would remove any semblance of a market check on the use of billed party preference to enhance monopoly profits at the expense of ratepayers. Billed party preference would become a subsidized offering "bundled" with the LECs' monopoly exchange access services. Since IXC's and their subscribers could not avoid paying for billed party preference, they would have no realistic option but to utilize the system. Even though access code dialing incurs fewer actual costs, it would not be a meaningful option because a contribution to billed party preference would be included

in the price of the access code call. Thus, the system would be effectively imposed, not only on payphone owners and aggregators, but also on IXCs and their subscribers. Despite extremely high costs, there would be no marketplace alternative for IXCs and their subscribers.

Such a subsidized approached to billed party preference would be the antithesis of every policy the Commission has sought to pursue in telecommunications for the last 20 years. Yet, this seems to be the only form of billed party preference that LECs are willing to accept.<sup>4</sup>

V. MANDATORY BILLED PARTY PREFERENCE WOULD REVERSE ESTABLISHED POLICIES

Even if billed party preference were not compulsory for IXCs, its supporters agree it must be compulsory for aggregators and payphone providers, and the comments confirm that this would be a regressive step. The FCC's pro-competitive policies for CPE, enhanced services, long distance resale, and most recently local exchange access, have benefited the public by enabling subscribers to decide for themselves how best to make the equipment on their premises available to the public, and by encouraging the deployment

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<sup>4</sup> Subsidized billed party preference also would make it even easier for LECs to continue subsidizing the costs of LEC payphones. Commissions to location owners who installed LEC payphones could be increased and included as part of the "exogenous" costs of billed party preference which would be spread over all ratepayers. This is one more reason why, as a condition precedent to further consideration of billed party preference, the Commission must finally address the anachronistic regulatory status of LEC payphones and the fundamental marketplace inequities that result. Comments of APCC at 32-36.

of "distributed intelligence" that makes each customer premises the locus of competitively spurred technological innovation. APCC at 5-6. The Commission's BPP proposal would reverse these established pro-competitive policies, and "return to the 1940s-style, paternalistic regulatory philosophy that favors monopoly over competition." Intellicall at 3.

Numerous commenting parties attest to the benefits flowing to the public communications marketplace as a result of the Commission's competitive policies for CPE, enhanced services, long distance resale, and local access competition. These benefits would be sacrificed if billed party preference regulation were forced on the industry.

As the American Hotel and Motel Association ("AH&MA") explains, "[t]he explosive growth in telecommunications services for the traveling public is a major success story" of procompetitive, deregulatory policies. According to AH&MA, the investment in premises based telecommunications technology in hotels and motels stimulated by these policies has brought a broad spectrum of innovative capabilities to improve guest services. These include voice mail, fax services, automated concierge, answer detection, computer communications, and a wide variety of other services. AH&MA at 7-8. These beneficial services are funded in large part from revenues collected by hotels from 0+ services.

Similarly, the Commission's policies have allowed colleges and universities to enhance their telecommunications network and services to students, faculty and other members of university

communities. South Carolina Division of Resource Management at 6-7. These enhancements are also funded in large part through 0+ revenues. Id.; see also letters from Duke University, Harvard University, Montana State University.

The comments also demonstrate the benefits that have resulted from competition and innovation in the public pay telephone industry. For example, the comments of numerous airport authorities discuss the critical importance of efficient, reliable, high quality pay telephone services to air travelers. According to these parties, the competition fostered by the Commission's policies has produced incentives for all service providers -- both established LECs and IXCs and new entrants -- to upgrade their services and respond to consumer needs. Greater Orlando Aviation Authority at 2. The difficult technical reconfigurations involved in billed party preference are likely to degrade service at airports, and the destruction of competitive incentives will halt the equipment and service improvements sparked by competition. Id. at 4.

Other payphone location owners describe similar benefits from competition and similar concerns regarding the impact of billed party preference on those benefits. According to the National Association of Convenience Stores, the competitive era has resulted in numerical growth and service innovation in pay telephone facilities at convenience stores, including "drive-up" telephones and public fax machines. NACS at 2-3.

The City of New York points out that, since the pay telephone market was opened to competition, the number of pay telephones available to consumers in the City has grown significantly, and that many of the new pay telephones are located in previously underserved areas. In these areas, where up to 20% of households have no residential telephone service, payphones provide a critical "lifeline" for the community. City of New York at 10-11. Similarly, according to the California Payphone Association, 80% of competitively owned payphone installations in Pacific Bell's service area have been at previously unserved locations. CPA at 2. In the past, the provision of adequate public telephone service to low-income neighborhoods had been largely abandoned by many LECs. The introduction of competitive pay telephones has caused improved service to these areas. In addition to providing a competitive spur to the LECs, independent payphone owners are more likely to provide speedy repair and maintenance because they cannot afford the loss of revenues associated with an out-of-service phone. IPANY at 4.

Improvements in both maintenance of service and in the range of services offered have resulted from the competitive spur to innovation in payphone and operator service technology. Technology based services such as automatic message delivery were pioneered by independent payphone suppliers deploying "distributed" intelligence in CPE. Intellicall at 6-8.

As these and other parties explain, compulsory BPP would eliminate a critical source of revenue which has encouraged hotels,

motels, universities, airports, convenience stores, cities and counties, and others to offer improved pay telephone and other telecommunications services to consumers using their facilities. By undermining the incentives for independent payphone providers and aggregators to offer public communications facilities and to deploy state-of-the-art technology, compulsory BPP would cause a decline in the quality and quantity of public communications service. In addition, compulsory BPP would largely remove operator service functions from the competitive sphere, and thereby cut the ground out from one of the major supports of innovation in payphone and aggregator CPE. U.S. Long Distance at 16-17. Computer intelligence would be recentralized in carrier networks, and in particular the LEC networks, where innovation would stagnate under the heavy hand of regulated monopoly. The effect on the public communications market would be analogous to the effect on the CPE market if the Commission were to rule that all subscribers must use Centrex service -- thereby outlawing the PBX. Id.

\* \* \*

In summary, the comments reveal that the Commission's billed party preference proposal represents nothing less than a complete reversal of the Commission's pro-competitive, deregulatory approach to the public communications market. The Commission's historic decisions on CPE, enhanced services, long distance resale, and local exchange access policies would be declared virtually inapplicable to payphones and public communications. Such a step should not even be considered without compelling evidence that